



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/725,170	12/01/2003	Steven M. Schein	ST-027 Cont	2063
75563	7590	05/11/2010		
ROPES & GRAY LLP PATENT DOCKETING 39/361 1211 AVENUE OF THE AMERICAS NEW YORK, NY 10036-8704			EXAMINER IDOWU, OLUGBENGA O	
			ART UNIT 2425	PAPER NUMBER
			MAIL DATE 05/11/2010	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/725,170	<b>Applicant(s)</b> SCHEIN ET AL.	
	<b>Examiner</b> OLUGBENGA IDOWU	<b>Art Unit</b> 2425	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 20 January 2010.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-5, 8-13 and 16-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5, 8-13 and 16-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)         | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 1/20/2010 has been entered.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims **1 – 5, 8 – 13 and 16 - 20** are rejected under 35 U.S.C. 103(a) as being unpatentable over Hendricks, patent number: 5 798 785 in view of Russo, patent number: 5 619 247.

As per claims 1, 9 and 17, Hendricks teaches an interactive electronic program guide (IPG) including a display screen comprising:

a database local to a viewer for storing television schedule information including information about television programs and a plurality of criteria associated with each

Art Unit: 2425

television program (database on STB storing abstracts, col. 30, lines 40 – 50, lines 10 - 13); and

a microprocessor local to the viewer(microprocessor, col. 9, line 66) configured to automatically, without user intervention generate a set of favorite criteria about television programs that the viewer would likely be interested in (the STB understanding the user and creating a profile, col. 29, lines 26 - 37), search the database for identifying a television program that includes at least one of the favorite criteria (searching the database, col. 30, lines 43 - 44), tag the identified television program stored in the local database that includes the at least one of the favorite criteria (selecting programs, col. 30, lines 47 - 49), and in response to the automatic tagging,

Hendricks does not teach activating, without user intervention, a function of the IPG related to a television program, wherein the activated function includes at least one of automatically programming a recording device to record the television program at a scheduled telecast time and automatically setting a reminder for the viewer to view the tagged television program.

In an analogous art, Russo teaches activating, without user intervention, a function of the IPG related to a television program, wherein the activated function includes at least one of automatically programming a recording device to record the television program at a scheduled telecast time and automatically setting a reminder for the viewer to view the tagged television program (automatically recording shows based on user preference, col. 9, lines 51 – 59, col. 10, lines 4 - 10).

Art Unit: 2425

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Hendricks' program suggestion system by including a system that records shows automatically based on user preference as described in Russo's pay per play system for the advantages of having a variety of shows that fit user desires available thereby providing alternatives to users incase there are no shows that fit user criteria at the current moment.

As per claims 2, 10 and 18, the combination of Hendricks and Russo teach further comprising a display controller for automatically displaying on the display screen a portion of the schedule information including the identified television program in guide format (Hendricks: displaying a list of suggested programs to viewer, col. 30, lines 48 - 50).

As per claims 3, 11 and 19, the combination of Hendricks and Russo teach wherein the favorite criteria includes one or more of actor's name (Hendricks: actor, col. 30, line 55), director's name, type of program, other broadcast times, other broadcast sources, and program theme.

As per claims 4, 12 and 20, the combination of Hendricks and Russo teach wherein the microprocessor is configured to monitor and store the viewer's selections of television programs, and heuristically learn the viewer's favorite criteria according to the viewer's

Art Unit: 2425

selections of television programs (Hendricks: the STB understanding the user and creating a profile, col. 29, lines 26 - 37).

As per claims 5 and 13, the combination of Hendricks and Russo teach wherein the activated function includes automatically tuning to the tagged television program at a scheduled telecast time (Russo: automatically recording shows, col. 9, lines 51 – 59, col. 10, lines 4 - 10).

As per claims 8 and 16, the combination of Hendricks and Russo teach wherein the activated function is automatically downloading a copy of the tagged television program to a digital storage medium at scheduled telecast time (Russo: automatic downloading, col. 10, lines 4 - 10, Hendricks: digital signals, col. 6, line 8).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to OLUGBENGA IDOWU whose telephone number is (571)270-1450. The examiner can normally be reached on IFP.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Pendleton can be reached on 5712727527. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2425

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/OLUGBENGA IDOWU/  
Examiner, Art Unit 2425

/Brian T. Pendleton/  
Supervisory Patent Examiner, Art Unit 2425